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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,770	02/14/2000	James J. Perrault	041861-25301	7135

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EXAMINER

YU, GINA C

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

* Restarted time on 4/3/03 due
to paper #20 wasn't processed,

B. Gray
4/2/03

Office Action Summary

Applicant(s)

09/503,770

Applicant(s)

PERRAULT ET AL.

Examiner

Gina C. Yu

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-36 and 52-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-36 and 52-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 21-23.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on September 25, 2002 has been entered. Claims 1, 3-36, and 52-55 are pending. The allowability of the claims is withdrawn in part in view of further consideration as explained below.

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 38-40 been renumbered to 53-55. ***Claim Rejections - 35***

USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23-36 and 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "device" renders the claims vague and indefinite as the metes and bounds of the scope of the claim is unclear. Examiner notes that the term "device" is commonly used to refer an apparatus in patent claims, and applicants' disclosure presents no explanation for a skilled artisan to ascertain the meaning of the term as applied in the present invention. Thus the scope of the claim is unascertainable.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1, 4-10, 52, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yada et al. (US 4762862).

Yada et al. teaches water-soluble cationic acrylic gel homopolymers meeting the formula and constituents shown in instant claims 1 and 10. See col. 3, line 26 – col. 4, line 10. See also col. 3, lines 49 – 60 for instant claims 53 and 54.

While the reference does not explicitly disclose the number of the repeat unit of the polymer, examiner notes that the reference teaches the acrylic polymers have a high molecular weight. See abstract. Given the general condition of the polymers, examiner views that it would have been obvious to a skilled worker to discover the optimum number of the repeat unit of the gel polymer.

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2. Claims 11, 12, 14-22 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yada et al. (US 4762862).

The Yada patent is discussed above. The reference further teaches polymer gel having the polymer concentration of 50-86 % by weight. See col. 8, lines 44 – 61; Examples.

Instant claims 11, 12, 14-22 and 54 are directed to compositions. It is viewed that the term “wound dressing” in the claim preamble merely recites statements of purpose or use, which is not considered as a claim limitation. See MPEP § 2111.02.

While the reference does not explicitly disclose the number of the repeat unit of the polymer, given the general teaching of high molecular weight thereof, it would have been obvious to a skilled worker to discover the optimum number of the repeat unit of the gel polymer.

Allowable Subject Matter

Claims 23-36, and 55 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 3 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

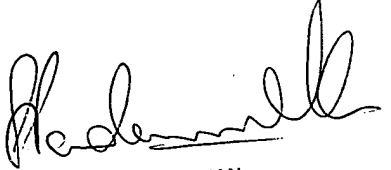
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 703-308-3951.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 703-305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina C. Yu
Patent Examiner
December 2, 2002


SREENI PADMANABHAN
PRIMARY EXAMINER 12/2/02